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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/975,505
Filing Date: October 12, 2001
Appellant(s): ASAI, TAKAYUKI

Justin M. Sobaje Reg. No. 56,252
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 02/06/2007 appealing from the Office action mailed 06/20/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6438576	Huang et al.	8-2002
6681380	Britton et al.	1-2004
6061686	Gauvin et al.	5-2000
6678518	Eerola	10-2003

6769019 Ferguson 11-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 – 24 were presented for examination.

Claim Rejections - 35 USC § 102

Claims 1, and 8 – 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Huang et al. U.S. Patent No. 6438576 (hereinafter Huang).

Referencing claim 1, as closely interpreted by the Examiner, Huang teaches an object, the object requested by a client from a server, the client accessing the server through a proxy server during a session, the method comprising:

periodically monitoring a residual amount of memory capacity in the client during said session to provide a plurality of monitoring results, said residual amount of memory capacity being an amount of unused memory capacity in the client that is free to accept data received by the client, (e.g. col. 5, line 42 – col. 6, line 4, *"The specific device **capabilities**, referred to herein as **receiver hint information (RHI)**, as well as the object data type (generally referred to herein as object-specific descriptor information) are included such as by being appended to the meta-information associated with requests and requested objects. The RHI can be **included with an object request by the requesting client device** 130, 131, or by one of the proxies (e.g., the first*

proxy coupled to the requesting device.) In the latter case the proxy 110, 111, 112 can access a table of device capabilities, based on an identifier of the requesting device sent with the request, and can construct the RHI based on the stored information in the table." & "...the local proxy server has access to a table wherein are stored the characteristics(e.g., type of display, size of graphics memory, etc.) of the various client devices that con be serviced by the local proxy." & col. 11, lines 15 – 55);

notifying a filtering condition from the client to said proxy server in accordance with at least one of the plurality of monitoring results, (e.g. col. 5, line 42 – col. 6, line 4, *"The specific device **capabilities**, referred to herein as **receiver hint information (RHI)**, as well as the object data type (generally referred to herein as object-specific descriptor information) are included such as by being appended to the meta-information associated with requests and requested objects. The RHI can be **included with an object request by the requesting client device** 130, 131, or by one of the proxies (e.g., the first proxy coupled to the requesting device.) In the latter case the proxy 110, 111, 112 can access a table of device capabilities, based on an identifier of the requesting device sent with the request, and can construct the RHI based on the stored information in the table."*); and

filtering the object by said proxy server in accordance with the filtering condition thus notified, (e.g. col. 6, lines 52 – 65, *"Object renderer may be a computer program which renders, by example, a color image into a black-and-white image, or one that reduces a complex HyperText Markup Language (HTML) text into a simple HTML text containing only summary of the HTML headers."*).

Referencing claim 8, as closely interpreted by the Examiner, Huang teaches the filtering condition is represented by a data length of the object, (e.g. col. 10, lines 46 – 67, *"It can be appreciated that a proxy server 110, 111, 112 that receives an image object having the above-noted PICS label r(c 16 s 1000), in response to a request from the PDD having the above-noted RHI d(c 1 s 2), will be informed that the PDD is incapable of displaying the image object as received, and that the image object will need to be rendered into a form that the PDD is capable of displaying."*).

Referencing claim 9, as closely interpreted by the Examiner, Huang teaches said proxy server prohibits a file having a data length exceeding the data length notified from the client as the filtering condition from being transmitted to the client, (e.g. col. 10, lines 46 – 67, *"If, however, for some reasons the proxy server elects to not completely render the image object, or to not render the image object at all, due to, for example, loading considerations or a lack of suitable software, then the PICS label of the image object will not reflect a condition compatible with the display capabilities of the PDD."*).

Referencing claim 10, as closely interpreted by the Examiner, Huang teaches the client is a cellular phone terminal, (e.g. col. 6, lines 24 – 38, *"smart phone"*).

Claims 12 – 14, 16 and 17 are rejected for similar reasons stated above.

Claim Rejections - 35 USC § 103

Claims 2 – 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang in view of Britton et al (6681380) (hereinafter Britton).

As per claim 2, as closely interpreted by the Examiner, Huang teaches the filtering condition is notified from the client to said proxy server, (e.g. col. 3, lines 50 – 67), but does not specifically teach after an elapse of a predetermined time period since a previous notification. Britton teaches after the elapse of a predetermined time period since a previous notification, (e.g., col. 12, line 47 – col. 13, line 10, *"Depending on how often new rules are created, this parsing process may be invoked each time the present invention operates to perform an aggregation of information, or it may be invoked less often (for example, only when new rules have been created, or at predetermined periodic intervals, etc.)."*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Britton with Huang because having the conditions automatically updated periodically enables the user or other administrative personal the flexibility to not intervene every time a parameter changes, therefore making the conditions more dynamic and closer to real time when the parameters change.

Referencing claim 3, as closely interpreted by the Examiner, Huang does not specifically teach the predetermined time period is freely set from an external source. Britton teaches the predetermined time period is freely set from an external source, (e.g., col. 12, line 47 – col. 13, line 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Britton with Huang because of similar reasons stated above.

Referencing claim 4, as closely interpreted by the Examiner, Huang does not specifically teach the filtering condition is valid only for a predetermined time period after the proxy server is notified of the filtering condition teaches. Britton teaches the filtering condition is valid only for a predetermined time period after the proxy server is notified of the filtering condition, (e.g., col. 12, line 47 – col. 13, line 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Britton with Huang because of similar reasons stated above.

Claims 5 – 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (6438576) in view of Gauvin et al. (6061686) (hereinafter Gauvin).

Referencing claim 5, as closely interpreted by the Examiner, Huang does not specifically teach the filtering condition is represented by a filename extension of the object.
Gauvin teaches the filtering condition is represented by a filename extension of the object, (e.g. col. 8, line 60 – col. 9, line 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the Gauvin with Huang because filtering out specific types of data would guaranty that the specific types would not be introduced into the environment to overwhelm the network with more bandwidth demands. Furthermore, with would also ensure that only information desired by the user would be transmitted to the user's system.

Referencing claim 6, as closely interpreted by the Examiner, Huang does not specifically teach said proxy server prohibits only a file having the filename extension notified from the client as the filtering condition from being transmitted to the client.

Gauvin teaches said proxy server prohibits only a file having the filename extension notified from the client as the filtering condition from being transmitted to the client, (e.g. col. 8, line 60 – col. 9, line 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the Gauvin with Huang because of similar reasons stated above.

Referencing claim 7, as closely interpreted by the Examiner, Huang does not specifically teach said proxy server allows only a file having no filename extension notified from the client as the filtering condition to be transmitted to the client. Gauvin teaches said proxy server allows only a file having no filename extension notified from the client as the filtering condition to be transmitted to the client, (e.g. col. 8, line 60 – col. 9, line 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the Gauvin with Huang because of similar reasons stated above.

Claim 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (6438576) in view of Eerola (6678518).

Referencing claim 11, as closely interpreted by the Examiner, Huang teaches the use of a wireless phone as described above but does not specifically teach said proxy server is a gateway server for WAP (Wireless Application Protocol).

Eerola teaches said proxy server is a gateway server for WAP (Wireless Application Protocol), (e.g. col. 1, lines 44 – 53). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the Eerola with Huang because it would be more efficient and compatible for a system to utilize a protocol that is common to integrate with other users in other system than to have a non-compatible system that could not do the described function without a type of adapter.

Claims 12, 16, 17, 19, 20 and 22 – 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang in view of Ferguson (6769019).

Referencing claim 19, as closely interpreted by the Examiner, Huang teaches a client device for accessing a server through a proxy server during a session to request a desired object from the server, the client device comprising:

a controller for controlling an access to said proxy server to acquire the object, (e.g. col. 5, line 41 – col. 6, line 4); and

a memory unit for storing the object, (e.g. col. 5, line 41 – col. 6, line 4);

wherein said controller is configured to periodically monitor a residual amount of memory capacity of said memory unit during said session, (e.g. col. 5, line 42 – col. 6, line 4, *"The specific device **capabilities**, referred to herein as **receiver hint information (RHI)**, as well as the object data type (generally referred to herein as object-specific descriptor information) are included such as by being appended to the meta-information associated with requests and requested objects. The RHI can be **included with an object request by the requesting client***

device 130, 131, or by one of the proxies (e.g., the first proxy coupled to the requesting device.) In the latter case the proxy 110, 111, 112 can access a table of device capabilities, based on an identifier of the requesting device sent with the request, and can construct the RHI based on the stored information in the table.")

wherein when said controller detects that a residual amount of memory, said controller notifies to said proxy server a filtering condition for filtering the object, (e.g. col. 5, line 41 – col. 6, line 4), but does not specifically teach memory of said memory unit is equal to a predetermined residual amount or less. Ferguson teaches detecting that a residual amount of memory of said memory unit is equal to a predetermined residual amount or less said controller notifies to said proxy server a filtering condition for filtering the object, (e.g., col. 10, line 61 – col. 11, line 50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ferguson with Huang because utilizing a threshold in a system for memory enables a user to not have information that is too large to be save on their system which cannot fit it.

As per claim 20, as closely interpreted by the Examiner, Huang teaches wherein the filtering condition is represented by a data length of the object, (e.g., col. 10, lines 20 – 45).

As per claim 22, as closely interpreted by the Examiner, Huang does not specifically teach the controller is configured to establish the session between the client device and the proxy server; and

wherein the session is maintained until the session is terminated by the client device or the proxy server. Ferguson teaches the controller is configured to establish the session between the client device and the proxy server, (e.g., col. 26, line 47 – col. 27, line 13); and
wherein the session is maintained until the session is terminated by the client device or the proxy server, (e.g., col. 26, line 47 – col. 27, line 13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ferguson with Huang because utilizing the controller to aid in the setup of a session enables the controller to control what parameters are sent between the two devices and establish an intermediate in the communication process.

As per claim 23, as closely interpreted by the Examiner, Huang teaches the residual amount of memory capacity of the memory unit is able to change as data is stored in said memory unit, (e.g. col. 5, line 42 – col. 6, line 4).

As per claim 24, as closely interpreted by the Examiner, Huang teaches the residual amount of memory capacity of the memory unit is less than a total amount of memory capacity of the memory unit, (e.g. col. 5, line 42 – col. 6, line 4).

Claims 12, 16 and 17 are rejected for similar reasons stated above. is rejected for similar reasons as stated above

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang and Ferguson in view of Britton.

Claims 13 and 14 are rejected for similar reasons as stated in claims 12 and 2 – 4.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huang and Ferguson in view of Gauvin.

Claim 15 is rejected for similar reasons as stated in claims 12 and 5 – 7.

Claims 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang and Ferguson in view of Eerola (6678518).

As per claim 21, as closely interpreted by the Examiner, Huang and Ferguson do not specifically teach the controller is configured to establish the session between the client device and the proxy server using WSP (Wireless Session Protocol). Eerola teaches the controller is configured to establish the session between the client device and the proxy server using WAP, (it is well known in the art that Wireless Session Protocol is the Session layer protocol family in the WAP architecture is called the Wireless Session Protocol, WSP. WSP provides the upper-level application layer of WAP with a consistent interface for two session services. The first is a connection-mode service that operates above a transaction layer protocol WTP, and the second is a connectionless service that operates above a secure or non-secure datagram transport service.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Eerola with the combine system of Huang and Ferguson because of similar reasons stated above.

Claim 18 is rejected for similar reasons stated above in claims 12 and 11.

Response to Arguments

Applicant's arguments filed 03/09/2006 have been fully considered but they are not persuasive.

Applicant states that the Examiner stated that amending the claims to include the concept of periodically monitoring the residual amount of memory capacity in the client would cause the claims to easily overcome the Huang reference.

Examiner as stated no such promise and has only suggested that utilizing claim language similar to what is stated above **COULD** overcome the prior art but the Applicant would have to make sure that the amendment was clear enough to do such. Applicant's amendment attempt is in the right direction but there is no language that states how the monitoring is specifically conducted. All that is stated is that it is "periodically" done. There is no claim language that states if this is done separately from the request for web data or with. As can be seen in Huang, this can occur every time a user requests an object by sending the RHI information with it, therefore making it a dynamic request.

In the Remarks, Applicant argues in substance that neither Huang or Ferguson teach the claim language of periodically monitoring a residual amount of memory capacity in the client during said session to provide a plurality of monitoring results.

As to part 1, Applicant is asked to view the above remark and the newly cited areas of the prior art. Furthermore, when reviewing a reference the applicants should remember that not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. In re Preda, 401 F. 2d 825, 159 USPQ 342 (CCPA 1968) and In re Shepard, 319 F. 2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. In re Sovish, 769 F. 2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby, 309 F. 2d 513, 135 USPQ 317 (CCPA 1962). The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. In re Bozek, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969). Every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein. In re Bode, 550 F. 2d 656, 193 USPQ 12 (CCPA 1977).

In the Remarks, Applicant argues in substance that Britton, Gauvin and Eerola do not teach the Applicant's claim language.

As to part 2, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

(10) Response to Argument

In the Arguments, Appellant argues in substance that the Huang reference neither disclose nor suggest periodically monitoring a residual amount of memory capacity in a client during a session to provide a plurality of monitoring results. In the system of Huang, a client device is able to provide information about "device capabilities" of the client device to a proxy server along with an object request. (Huang; col. 5, line 42 - col. 6, line 4). Huang provides two examples of characteristics of a client device that may be stored at a proxy server, which are: (i) type of display; and (ii) size of graphics memory. (Huang; col. 5, lines 55-60). It is important to note that "type of display" does not provide information about a residual amount of memory capacity, and "size of graphics memory" does not provide information about a residual amount of memory capacity. (Huang; col. 11, lines 15-55). Moreover, there is no mention of periodically monitoring a residual amount of memory capacity in the cited portions of Huang. (Huang; col. 5, line 42 -col. 6, line 4; col. 11, lines 15-55).

Information about a type of display in the system of Huang refers to a number of bits of color encoding that can be displayed by a client device. (Huang; col. 11, lines 17-25). For example, a client device may only be able to display black-and-white images and, thus, display images with a 1-bit color encoding. (Huang; col. 11, lines 17-25). Such information about a "type of display" provides no information about a residual amount of memory capacity at the client device.

Information about a size of graphics memory in the system of Huang refers to a maximum image size that can be displayed by the client device. (Huang; col. 11, lines 17-25). For example, a

client device may only be able to display an image size of up to 3M bytes. (Huang; col. 11, lines 17-25). Thus, such information is only concerned about a resolution of an image that can be displayed by a client device. (Huang; col. 1, lines 36-56). Such information about a "size of graphics memory" provides no information about a residual amount of memory capacity at the client device, where the residual amount of memory capacity is an amount of unused memory capacity in the client that is free to accept data received by the client.

As to the first argument, Examiner would like to address the claim language and how it can be interpreted. Appellant's first limitation, with emphasis, "periodically monitoring a residual amount of memory capacity in the client during said session to provide a plurality of monitoring results," is very broad and it appears that the Appellant is placing more meaning that is given to the claim language. Firstly, there is no limitation as to how this "periodically monitoring" occurs in the system, i.e., is the information pushed to a server requested from a client, automatically sent with a request from a client, etc, or if periodically is a specific time period that this occurs or random such as every time a client requests information, data about the client is appended to the request. As is clear from the prior art, Huang teaches in one example that when a user on a device sends a request, the request has parameter information attached to it that describes the limitations to the device, column 5, lines 42 – 62, *"The **RHI** can be included with an object requested by the requesting client device 130, 131, **or by one of the proxies**. In the latter case the proxy 110, 111, 112 can access a **table of device capabilities**, based on an identifier of the requesting device sent with the request, and can construct the RHI based on the stored information in the table. As an example, and assuming an ISP arrangement, the local proxy*

*server has access to a table wherein are stored the characteristics (e.g., type of display, **size of graphics memory,** etc.) of the various client devices that can be serviced by the local proxy. The table entry for a particular client device 130, 131 can be stored when the device first registers with the ISP. Thereafter, the local proxy server receives an identifier of the client device when the client device makes a request, accesses the table, and constructs the appropriate RHI for inclusion with the object request. In a similar manner the source of the requested object can add the object-specific descriptor information to the returned object, or this information can be added by the proxy server local to the source of the requested object (for the case where a proxy server does not fulfill the request from a copy of the object stored in the proxy, as described in further detail below.)"* It is very clear that every time a user makes a request on a device, a size of a graphics memory can be sent to the local proxy and therefore can be interpreted as the system "periodically monitoring" the device. Furthermore, a "residual amount of memory" is nothing more then the memory that **can** be used in the device, whether some of the memory is used or all the memory is available to the system, at any given point. Appellant never gives a specific definition to state otherwise as is proof in the claim language, *"said residual amount of memory capacity being an amount of unused memory capacity in the client that is free to accept data received by the client"*. This can be interpreted as unused or available memory that can be used at a given point in time. Such as all the memory will be free and available for an image to be loaded onto its graphical memory.

Looking now at column 10 lines 35 et seq., one can see the size of the graphic memory that an image can be loaded onto a PDA is 2M bytes. In the understanding of different scenarios and interpretations, one can interpret the graphic memory as being empty and when a request is made

the RHI that is sent states that the PDA can hold up to 2M bytes of information at the point in time the requested image is sent to the device, or other interpretations stated above. It is well known in the art that a device wouldn't suggest overloading the memory by stating that it could hold more data than allowed because this type of logic would cause a device to have consistent errors. Huang continually modifies the image based on the RHI until it fits the criteria or as it can be considered "filter", and sent to the device.

Appellant states that the prior art teaches the objects are transmitted to a client irrespective of a variation of a residual amount of memory capacity in the client, but as stated before in on interpretation of the art, there is nothing in the claim language that would state that there is anything in their memory already and that it can be interpreted as the memory being clear for a device to receive information that fits into the amount given to them. Appellant further states that the "size of graphics memory" is static information that does not change over time and, thus, are not periodically monitored. As the Examiner as stated before, the device of Huang teaches an amount of memory that is free for the device to load onto the graphics memory at any point in time the device requests information, and therefore can be interpreted as a residual amount. Claims 2 – 7 and 11 are argued in the same light as claim 1 and are therefore responded to in the same light as stated above.

In the Arguments, Appellant argues in substance that neither Huang nor Ferguson teach the claim limitations found in claim 12. More specifically Ferguson does not notify to a proxy server a filtering condition based on a residual amount of memory.

As to the second argument, Examiner would like to draw the Appellant's attention to the above response to the first argument. In which it is very clear that Huang teaches sending filtering conditions based on a residual amount of memory to a proxy. Ferguson is utilized to teach the more specific limitation of finding the residual amount of memory as is apparent by the algorithm utilized by Ferguson, column 11, lines 24 et seq. In this algorithm, it is clearly determined that the current cache size compared to a threshold and if that threshold is met then nothing can be sent to the device. Furthermore, utilizing Huang's sending of device size constraints as a filtering system to render images to fit the data size of the device and Ferguson's ability to more specifically determine if the threshold is met would give the combination of the two inventions the ability to not send data if memory is full and wait till memory is available to send such data. KSR v. Teleflex, Inc.

All other arguments given by the Appellant in regards to claims 12 – 24 are similar to the argument given above and are therefore addressed in similar light as above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

DE

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